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Evan A. Showell

March 29, 2012

VIA ECF

Hon. Noel L. Hillman, U.S.D.J.
Mitchell H. Cohen U.S. Ct. Hse.
1 John F. Gerry Plaza, Room 6020
P.O. Box 2706
Camden, N.J. 08101

Re: Stewart, et al. v. Beam Global Spirits & Wine, Inc., et al.
Docket No. 1:11-cv-05149-NLH-KMW

Dear Judge Hillman:

We represent Plaintiffs Maureen Stewart and Kelly Lamicella in the above-referenced matter. We write in response to Michael Carroll's letter to the Court dated March 28, 2012 regarding Judge Martini's recent decision in *Weske, et al. v. Samsung Electronics America, Inc. et al.*

Mr. Carroll's assertion that in *Samsung*, Judge Martini confronted the "identical issue" to that presented in this case is simply untrue. *Samsung*, in no way involved a case where the consumer affected by the defendant's wrongful conduct was statutorily barred from purchasing the product at issue directly from the manufacturer. That is a critical distinction and the very reason Plaintiffs' unjust enrichment claim against the Beam Defendants should not be dismissed. As these same Defendants pointed out in their moving brief, N.J.S.A. 33:1-3.1 (b)(8) was enacted to preserve a multi-tiered distribution system in the sale of alcoholic beverages to retail consumers. An ostensible purpose of the statute was to minimize the impact of organized crime on alcoholic beverage distribution in New Jersey.

An additional purpose of the statute, and one intentionally overlooked by the Beam Defendants, was to protect consumers from fraud in the sale of alcoholic beverages. N.J.S.A. 33:1-3.1 (b)(4). The damages Plaintiffs allege in this case are rooted in the Beam Defendants' fraud.

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The policy considerations surrounding the distribution of major appliances are radically different from those surrounding the sale of alcoholic beverages which are subject to their own unique regulatory regime. Accordingly, *Samsung* is entirely distinguishable from the present case and should form no part of the Court's analytical framework in determining the Beam Defendants' pending motion.

Respectfully submitted,

/s/ Evan A. Showell

Evan A. Showell

cc: Hon. Karen M. Williams, U.S.M.J. *(via ECF)*
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